

<p>BERNICE FLEMING,</p>	<p>)</p>	<p>Case No.:</p>
<p style="padding-left: 40px;">Plaintiff,</p>	<p>)</p>	
<p style="text-align: center;">v.</p>	<p>)</p>	
<p>CREDIT ACCEPTANCE CORPORATION</p>	<p>)</p>	<p>COMPLAINT AND JURY DEMAND</p>
<p style="text-align: center;">Defendant</p>	<p>)</p>	

PRELIMINARY STATEMENT

JURISDICTION AND VENUE

PARTIES

Case 4:16-cv-00901-FJG Document 1 Filed 08/16/16 Page 1 of 4

1 5. Defendant, Credit Acceptance Corporation is incorporated and doing business in the State
2 of Michigan, with its corporate mailing address as 25505 West Twelve Mile Road, Southfield,
3 MI 48034.
4

5 **FACTUAL STATEMENT**
6

7 6. Plaintiff is a co-signer on an account with her father. Between March 16, 2016 and April
8 19, 2016, she received numerous calls from Defendant to her cellular phone regarding amounts
9 allegedly owed to Defendant.

10 7. Upon information and belief, the calls were made using an automatic telephone dialing
11 system and/or by using an artificial or prerecorded voice.
12

13 8. The calls Plaintiff received were from Defendant's numbers (734) 742-1035 and (586)
14 461-4322. The calls were made to Plaintiff's cell number (816) xxx-4408 for which she incurs
15 charges.
16

17 9. On April 13, 2016 Plaintiff called Defendant and advised Defendant's representative that
18 she had previously contacted them to stop calling her. On that date, she reiterated that she was
19 not to be called by Defendant in the future and demanded that Defendant stop calling her.

20 10. Defendant's representative repeatedly stated that unless a payment plan was in effect,
21 Defendant would continue to call her.
22

23 11. Despite issuing this clear and unequivocal cease on April 13, 2016, Defendant
24 thereafter used an autodialing system and called Plaintiff on her cellular phone seventeen (17)
25 times.
26

27 12. As a result of the foregoing actions, Plaintiff has been abused, harassed, annoyed and
28 damaged and is entitled to relief.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227 et seq.

13. Plaintiff repeats and realleges the prior paragraphs as if fully set forth herein.

14. Defendant called Plaintiff's cellular telephone number repeatedly in an attempt to collect on an alleged debt after they had been advised to cease calling her. Defendant's use of an automatic dialing system subjects them to the provisions of the Act.

15. On April 13, 2016 Plaintiff revoked any consent previously given and advised Defendant to stop calling her, which request Defendant did not honor. Thereafter, Defendant improperly called Plaintiff seventeen (17) times.

16. Defendant's actions have damaged Plaintiff and constitute violations and/or willful violations of 47 U.S.C. § 227(b)(1)(A)(iii), as well as any other applicable provisions of the TCPA, and its conduct is not exempt from the proscriptions of the statute.¹⁷

17. The TCPA creates a private right of action against person who violate the act. As a result of each call made in violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages and treble damages for each call knowingly and/or willfully made in violation of the TCPA.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
- b) Enjoining Defendant from placing any further telephone calls to Plaintiff in violation of the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(A);
- c) Awarding Plaintiff statutory damages in the amount of \$500.00 per violation, pursuant to 47 U.S.C. § 227(b)(3)(B);

- 1 d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. § 227(b)(3)(B);
2 e) Awarding Plaintiff treble damages, pursuant to 47 U.S.C. § 227(b)(3)(C);
3 f) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
4 g) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed
5 under the law; and
6
7 h) Awarding such other and further relief as the Court may deem just and proper.
8
9

10 **JURY TRIAL DEMAND**

11 Plaintiff demands a trial by jury on all issues so triable.
12

13 Dated this 8th day of August, 2016
14

15 Respectfully Submitted,

16 s/ Richard Dvorak
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